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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,445	09/23/2003	Joseph A. Marino	C516.12-0014	2339
164 7590 06/16/2009 KINNEY & LANGE, P.A. THE KINNEY & LANGE BUILDING 312 SOUTH THIRD STREET MINNEAPOLIS, MN 55415-1002				
EXAMINER				
PRONE, CHRISTOPHER D				
ART UNIT		PAPER NUMBER		
3738				
MAIL DATE		DELIVERY MODE		
06/16/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/668,445

**Applicant(s)**

MARINO ET AL.

**Examiner**

CHRISTOPHER D. PRONE

**Art Unit**

3738

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 5-10, 12-19, 21-26, 28-33, 35-40 and 42-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-10, 13-19, 22-26, 29-33, 36-40, 43 and 44 is/are rejected.
- 7) ☒ Claim(s) 5, 12, 21, 28, 35 and 42 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/13/09 has been entered.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6-10, 13, 14, 17-19, 22-26, 29-33, 36-40, 43, and 44 are rejected under 35 U.S.C. 103 as being unpatentable over Forber et al United States Patent 5,733,294 in view of King et al United States Patent 3,874,88.

Forber discloses the invention substantially as claimed being an automatic loading mechanism for an occlusion device shown best in figure 6 comprising: a right occluding body (132) comprising a support frame made up of a plurality of arms attached to a fixed center post (125) and puller arms connected to a floating center post (123) extending externally of the right occluding device, and a left occluding body (130)

comprising a plurality of arms attached to the fixed center post (125). Forber discloses that first and second support frames comprise elastic shape memory nickel titanium or platinum-iridium. The floating center is positioned adjacent the fixed center post when the body is in fully the open state and remains unattached. The floating center is movable proximally from the fixed center when in the compressed shape, wherein when the body is in the compressed state the fixed center can be pulled out or pushed out away from the floating center.

However, Forber does not disclose a grasping knob on the right end of the center post.

King teaches the use of an occlusion device with center posts and occluding bodies. The floating center of King (figure 2B) comprises a core with a threaded engagement and a rounded knob on its right end in the same field of endeavor for the purpose of providing a releasable but secure engagement with the delivery device and a smooth delivery end to the occluding device.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the hollow core and t connection of Forber with a solid threaded core and to add the rounded knob as taught by King in order to make the engagement with the delivery device more secure and round off the end of the occluding device to enhance the delivery of the occluding device.

Claims 15 and 16 are rejected under 35 U.S.C. 103 as being unpatentable over the combination of Forber and King as applied to claims 1-3, 6-10, 13, 14, 17-19, 22-26,

29-33, 36-40, 43, and 44 above and further in view of Marks United States Patent 5,108,420.

Forber as modified by King discloses the invention substantially as claimed being described supra. However, the combination does not disclose that the occlusion device frame work includes an outer loop.

Marks teaches the use of an occlusion device having a framework that includes an outer loop (23) in the same field of endeavor for the purpose of providing additional support throughout the outer edge of the occlusion device.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to add the outer support ring taught by Marks to the occlusion device of Forber order to better support the outer edges of the first and second occlusion devices.

#### ***Allowable Subject Matter***

Claims 5, 12, 21, 28, 35, and 42 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments with respect to all claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher D. Prone whose telephone number is (571) 272-6085. The examiner can normally be reached on Monday through Fri 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher D Prone  
Examiner  
Art Unit 3738

/Christopher D Prone/

/Corrine M McDermott/

Supervisory Patent Examiner, Art Unit 3738